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February 21, 2007

House Education Committee
Rep. Rick Jore Chair

Re: HB 769

Dear Mr. Chairman and Members of the House Education Committee:

As advocates for youth with disabilities, the Montana Advocacy Program supports the licensing and regulation of private alternative adolescent residential schools and outdoor programs. However, we cannot support HB 769 as it does not sufficiently provide for the licensing and regulation of these programs. Instead, MAP supports SB 288, a more complete measure to accomplish this licensing, which received a "do pass" recommendation this week from the Senate Public Health, Welfare and Safety Committee.

We understand that SB 288 was used as a template for HB 769. We have compared the bills and have found that SB 288 would enact a more effective and appropriate licensing scheme. The following are the significant differences between the bills:

1. SB 288 authorizes the issuance of licenses that are valid for a period of between 1 and 2 years, and thus provide more frequent review for the renewal of licenses. HB 769 authorizes the issuance for a period between 1 and 3 years;
2. SB 288 provides that a license is valid only for the program for which it is issued. It does not allow the transfer of licenses. HB 769 allows the transfer of licenses with approval of the board of private alternative adolescent residential or outdoor programs;
3. SB 288 allows a one year provisional license to be issued only once, and allows a provisional license to be extended for a duration of no more than 6 months to complete background checks for staff. HB 769 does not limit the number of times that a provisional license can be issued to a program and does not limit the period of time that a provisional license can be extended to complete staff background checks;
4. SB 288 requires that building codes for programs require criteria for the number of persons to be housed in the structure and internal configuration

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of the structure. HB 769 does not require this criteria;

5. SB 288 does not require programs that are certified by a national or regional certifying organization approved by the board to have an onsite inspection by the state, but does require that prior to renewal of their license, that they demonstrate that they are still certified by that national or regional certifying organization. HB 769 also allows programs that are certified by such national and regional certifying organizations to forgo state inspection requirements, but it does not require proof of continued certification for renewal of its license;
6. SB 288 allows onsite inspections of programs without prior notice. HB 769 does not;
7. SB 288 keeps the current requirement that three people who run private programs and two members of the public be appointed to the board of private alternative adolescent residential or outdoor programs. It then requires the additional appointment of health care professionals as well as representatives of the Office of Public Instruction and the Department of Public Health and Human Services. HB 769 maintains the current membership of the board;
8. SB 288 broadens the definition of "program" to include all adolescent residential schools or outdoor programs that provide a 24-hour supervised living environment and offer room, board and specialized treatment, behavior modification, rehabilitation, secondary care of chemical dependency, discipline, emotional growth, or habilitation services for participants with emotional, psychological, developmental or behavioral dysfunctions or impairments. It maintains the current exclusion of application to recreational programs such as boy scouts, girl scouts or 4-H clubs, and adds an exclusion for summer youth camps that serve youth for a period of 2 weeks or less. It eliminates other current exclusions in law.

HB 769 keeps the current narrow four part definition of "program" largely unchanged. This definition includes only: 1.) private adolescent residential or outdoor programs; that 2.) provide a structured, private, alternative residential setting; 3.) to youth with emotional, behavioral or learning programs; and 4.) who have a history of failing in academic, social, moral or emotional development at home or less structured traditional settings. It retains the current exclusions under law and thus excludes boarding schools or residential schools focusing on academics, residential training or vocational programs with a sole focus on education and vocational training, youth camps with a focus on recreation and faith-related activities or an organization, boarding school or residential school that is an adjunct ministry of a church incorporated in Montana from licensing

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requirements.

In each of the areas above where SB 288 and HB 769 differ, SB 288 offers a superior provision that is more likely to ensure effective licensing of the programs at issue.

Thank you for the opportunity to testify on this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Beth Brenneman", followed by a horizontal line.

Beth Brenneman
Staff Attorney